

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Patrick Browne	Team: Team # 6	CCRB Case #: 201310602	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 11/08/2013 1:30 AM	Location of Incident: West 132nd Street between Seventh Avenue and Lenox Avenue	Precinct: 32	18 Mo. SOL 5/8/2015	EO SOL 5/8/2015	
Date/Time CV Reported Mon, 11/11/2013 10:09 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Mon, 11/11/2013 10:09 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Aaron Thorn	17386	907442	032 PCT
2. SSA Daniel Miller	02549	919418	032 PCT
3. POM Darion Brooks	22249	945532	032 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Aaron Thorn	Abuse: PO Aaron Thorn questioned § 87(2)(b)	
B.POM Aaron Thorn	Abuse: PO Aaron Thorn frisked § 87(2)(b)	
C.POM Aaron Thorn	Abuse: PO Aaron Thorn searched § 87(2)(b)	
D.POM Aaron Thorn	Abuse: PO Aaron Thorn searched the car in which § 87(2)(b) was an occupant.	
E.POM Darion Brooks	Abuse: PO Darion Brooks searched the car in which § 87(2)(b) was an occupant.	
§ 87(4-b) § 87(2)(g)		
§ 87(4-b) § 87(2)(g)		
§ 87(4-b) § 87(2)(g)		

### Case Summary

On November 11, 2013, § 87(2)(b) called the CCRB and filed this complaint via the call processing system.

At approximately 1:30 a.m. on November 8, 2013, § 87(2)(b) was approached by officers while sitting in his car on West 132<sup>nd</sup> Street between Seventh Avenue and Lenox Avenue in Manhattan, resulting in the following allegations:

- **Allegation A—Abuse of Authority: PO Aaron Thorn questioned § 87(2)(b)**
- **Allegation B—Abuse of Authority: PO Aaron Thorn frisked § 87(2)(b)**
- **Allegation C—Abuse of Authority: PO Aaron Thorn searched § 87(2)(b)**
- **Allegation D—Abuse of Authority: PO Aaron Thorn searched the car in which § 87(2)(b) was an occupant.**

§ 87(2)(g)  
[REDACTED]

- **Allegation E—Abuse of Authority: PO Darion Brooks searched the car in which § 87(2)(b) was an occupant.**

§ 87(2)(g)  
[REDACTED]

- § 87(4-b) § 87(2)(g)  
[REDACTED]
- [REDACTED]  
[REDACTED]
- [REDACTED]  
[REDACTED]

Both investigation and mediation were explained to § 87(2)(b) during his in person interview. However, because he stated that he intended to file a lawsuit, it was determined that the case was ineligible for mediation and would instead be investigated.

### Results of Investigation

#### Civilian Statement

##### Complainant/Victim: § 87(2)(b)

- *At the time of the incident, § 87(2)(b) was a § 87(2)(b)-old black male who stood 5'11", weighed 254 lbs., was bald and had brown eyes.*

- § 87(2)(b)

### **CCRB Statement**

§ 87(2)(b) was interviewed in person at the CCRB on December 18, 2013 (encl. 9A-G). At approximately 1:30 a.m. on November 8, 2013, § 87(2)(b) was sitting alone in his car, which was parked in a no-parking zone on the north side of West 132<sup>nd</sup> Street between Seventh Avenue and Lennox Avenue in Manhattan. § 87(2)(b) was waiting for a female friend named § 87(2)(b) to arrive so that they could go to a nearby bar. While waiting, § 87(2)(b) was listening to music from his car speakers and was browsing Facebook on his cell phone. The music was not playing loudly. § 87(2)(b)'s right hand was holding the phone below window level while his left hand was resting on his left thigh. The car's ignition was on, but its interior light was off. Two hours prior, § 87(2)(b) had been at an unidentified bar on West 122<sup>nd</sup> Street and Seventh Avenue, where he consumed one beer.

After approximately fifteen to twenty minutes, an unmarked police car approached and parked behind him. Three plainclothes officers, identified through investigation as Sgt. Daniel Miller, PO Aaron Thorn, and, PO Darion Brooks, all of the 32<sup>nd</sup> Precinct, exited and approached § 87(2)(b)'s car. Upon seeing the officers, § 87(2)(b) immediately placed his phone down on the front passenger's seat.

Through the closed driver's side window, PO Thorn requested § 87(2)(b)'s identification. § 87(2)(b) asked why he was being stopped, to which PO Thorn stated that he was illegally parked in a no-parking zone and could be towed. After § 87(2)(b) asserted that he had done nothing wrong, PO Thorn told him not to cause any problems and again requested his license and registration.

§ 87(2)(b) complied and provided his documents, which PO Thorn took back to the police vehicle. After several minutes, PO Thorn returned and instructed § 87(2)(b) to exit his car. § 87(2)(b) questioned why it was necessary when he had not committed any crimes. PO Thorn told him that there was some "crazy" activity on the block and that he was making the situation more difficult by arguing, though PO Thorn did not specify the nature of the activity. § 87(2)(b) complied and exited his car.

PO Thorn asked § 87(2)(b) if he was carrying anything sharp in his pockets. § 87(2)(b) said that he was not. PO Thorn then frisked and searched § 87(2)(b) patting down his entire body before entering all of his pockets. PO Thorn removed all of his belongings—including a wad of money in his front right pant pocket, a wallet in his back right pant pocket, and several pieces of mail in his back left pant pocket—and immediately handed them back to him. PO Thorn then instructed him to stand against the trunk of the car with his back facing the vehicle. § 87(2)(b) complied.

While standing against the trunk, § 87(2)(b) briefly turned to see what was going on. As he did, he witnessed PO Thorn and PO Brooks searching his car, with PO Thorn leaning into the front driver's seat and PO Brooks leaning into one of the back seats. However, Sgt. Miller, who was standing next to § 87(2)(b) immediately told him to turn back around and not to move. When § 87(2)(b) stated that they had no right to search the car, Sgt. Miller told him to be quiet. § 87(2)(b) did not say anything further. The entire vehicle search, which did not include the trunk and from which nothing illegal was recovered, lasted about seven minutes.

After the officers finished the vehicle search, PO Thorn told § 87(2)(b) to get back in his car, go home, and not to return. All three officers reentered their vehicle and drove away. § 87(2)(b) was neither arrested nor issued any summonses.

**Witness:** § 87(2)(b)

- § 87(2)(b)'s pedigree and employment information is unknown. She is § 87(2)(b)'s friend.

**CCRB Statement**

§ 87(2)(b) provided a telephone statement to the CCRB on January 9, 2014 (encl. 10A).

At approximately 1:00 a.m. on November 8, 2013, § 87(2)(b) was on the corner of West 132<sup>nd</sup> Street and Seventh Avenue in Manhattan, where she was scheduled to meet § 87(2)(b). When she spotted § 87(2)(b)'s parked car on West 132<sup>nd</sup> Street, an unmarked dark four-door sedan pulled up next to him and flashed its police lights. Three officers stepped out and immediately approached § 87(2)(b)'s car. § 87(2)(b) did not hear any of their conversation, but shortly after one of the officers began speaking to § 87(2)(b), § 87(2)(b) exited and was placed up against the side of his vehicle. One of the officers then frisked his entire body, searched his pockets, and removed certain items, though § 87(2)(b) did not see which items.

Meanwhile, another officer searched the trunk of § 87(2)(b)'s car. During this time, § 87(2)(b) departed the scene and went home. § 87(2)(b) could not identify which officer took which action throughout the incident. § 87(2)(b) did not speak to § 87(2)(b) at the time and she did not believe he knew she was there until after the incident had concluded.

**Attempts to Contact Civilians**

§ 87(2)(b) maintained that an acquaintance nicknamed "§ 87(2)(b)" had reportedly also witnessed the incident, and he stated that he would attempt to obtain his real name and contact information. A follow up call was placed to § 87(2)(b) on December 31, 2013 and letters were mailed to him on January 8, 2014 and March 26, 2014, respectively, requesting that individual's contact information. As of the date of this report, § 87(2)(b) has not provided any such information to the CCRB.

**NYPD Statements**

**Subject Officer: SGT. DANIEL MILLER**

- *At the time of his interview, Sgt. Miller was a § 87(2)(b) old white male who stood 5'6", weighed 220 lbs., and had brown hair and brown eyes.*
- *On November 8, 2013, Sgt. Miller was assigned to anti-crime in the 32<sup>nd</sup> Precinct, working with PO Aaron Thorn and PO Darion Brooks. He worked from 7:26 p.m. on November 7, 2013 to 4:10 a.m. on November 8, 2013. He was dressed in plainclothes and was assigned to an unmarked grey Chevrolet Impala (#466).*

**Memo Book**

Sgt. Miller did not have any entries in his memo book related to this incident (encl. 11A). At 7:20 p.m., Sgt. Miller was present for duty. At 2:46 a.m., one arrest was made in front of 438 Lennox Avenue. At 4:10 a.m., Sgt. Miller ended his tour.

### **CCRB Statement**

Sgt. Miller was interviewed at the CCRB on April 3, 2014 (encl. 11B-C). Apart from the arrest that was noted in his memo book at 2:46 p.m. in the vicinity of 438 Lenox Avenue, Sgt. Miller had no recollection of stopping any individuals around the time of the incident. Similarly, even after being shown a photograph of § 87(2)(b) as well as a Google Street image of the incident location, Sgt. Miller still had no recollection of ever interacting with § 87(2)(b) or stopping any individual near the corner of West 132<sup>nd</sup> Street and Seventh Avenue. Sgt. Miller had no recollection of stopping any individual for being in a no-parking zone.

Sgt. Miller was also shown an EVENT chronology from the approximate time of the incident regarding a suspicious person near West 132<sup>nd</sup> Street and Seventh Avenue. However, Sgt. Miller did not recall the incident or if he ever responded to it or any other that morning. Sgt. Miller was also shown an unrelated Stop, Question, and Frisk report pertaining to the arrest noted in his memo book, which involved a § 87(2)(b) old black male who was stopped on suspicion of robbery. Sgt. Miller stated that he recalled some details of that arrest, such as how the arrestee was in possession of multiple forged credit cards, but that he did not recall ever stopping anyone else in relation to that arrest. Sgt. Miller did not recall the basis upon which the arrestee was originally stopped, including whether it stemmed from a radio run or an observation.

Sgt. Miller was informed that § 87(2)(b) provided a license plate number that corresponded to vehicle #466 as well as descriptions of subject officers that closely matched him, PO Thorn and PO Brooks. However, Sgt. Miller still had no recollection of the incident and did not recall ever seeing PO Thorn or PO Brooks frisk anyone, search anyone, or search any vehicle.

### **Subject Officer: PO DARION BROOKS**

- *At the time of his interview, PO Brooks was a § 87(2)(b) old black male who stood 6'2", weighed 185 lbs., and had black hair and brown eyes.*
- *On November 8, 2013, PO Brooks was partnered with Sgt. Daniel Miller and PO Aaron Thorn, working the same tour and assignment.*

### **Memo Book**

PO Brooks did not have any entries in his memo book related to this incident (encl. 12A-C). At 11:50 p.m. on November 7, 2013, PO Brooks changed vehicles, joining Sgt. Miller and PO Thorn in vehicle #466. At 2:40 a.m. on November 8, 2013, one black male was stopped on Lennox Avenue between West 131<sup>st</sup> Street and West 132<sup>nd</sup> Street. At 2:46 a.m., PO Thorn made an arrest. At 4:05 a.m., PO Brooks ended his tour.

### **CCRB Statement**

PO Brooks was interviewed at the CCRB on April 10, 2014 (encl. 12D-E). PO Brooks had no recollection of § 87(2)(b) or the stop of § 87(2)(b) on November 8, 2013. He was prompted in the same manner as Sgt. Miller, but this did not refresh his memory in any way.

### **NYPD Documents**

### **Retirement of PO Aaron Thorn**

Because PO Aaron Thorn retired from the NYPD on March 1, 2014 (encl. 13A), the CCRB was unable to obtain a statement from him.

### **Stop and Frisk Log**

According to both the handwritten (encl. 16A) and computerized (encl. 16B) Stop, Question, and Frisk logs from the time of the incident, no reports were completed for § 87(2)(b)

### **EVENT Summary**

According to the EVENT summary (encl. 17A-C), there was only one EVENT around the time and location of the incident, but it involved a disorderly intoxicated female. No EVENTS related to § 87(2)(b) were listed.

### **Status of Civil Proceedings**

- § 87(2)(b) has not filed a Notice of Claim with the City of New York as of April 17, 2014 with regard to the incident (encl. 20A).

### **Civilian's Criminal History**

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]  
[REDACTED]  
[REDACTED]  
[REDACTED]

### **Civilian's CCRB History**

- § 87(2)(b) has also filed the following CCRB complaints (encl. 6A):
  - § 87(2)(b)  
[REDACTED]  
[REDACTED]
  - [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

### **Subject Officers' CCRB Histories**

- Sgt. Miller has been a member of the service for seventeen years and there are no substantiated CCRB allegations against him (encl. 3A-B).
- PO Brooks has been a member of the service for six years and there are no substantiated CCRB allegations against him (encl. 4A).
- PO Thorn was a member of the service for twenty years and there are the following four substantiated CCRB allegations against him (encl. 5A-C):
  - In December 2010, the NYPD issued instructions to PO Thorn for one allegation of a frisk in connection with CCRB case #200909090.
  - On January 30, 2013, the CCRB substantiated one allegation of a stop, one allegation of a frisk, and one allegation of a vehicle search against PO Thorn in connection with CCRB case #201110584. Although the CCRB recommended charges, the NYPD did not take any action.

### **Conclusion**

### **Identification of Subject Officers**

§ 87(2)(b) described the officers' vehicle as a grey unmarked sedan resembling a Malibu, and he provided the partial license plate number "§ 87(2)(e), § 87(2)(b). According to Fleet Services, an unmarked grey Chevrolet Impala with license plate #§ 87(2)(e), § 87(2)(b) (vehicle #046608) was assigned to the 32<sup>nd</sup> Precinct, where the incident occurred.

At the time of the incident, Sgt. Daniel Miller, PO Darion Brooks, and PO Aaron Thorn, all of the 32<sup>nd</sup> Precinct, were assigned to the aforementioned vehicle #466, which the officers confirmed was a grey unmarked Chevrolet Impala. The officers also confirmed that they were assigned to anti-crime and were all in plainclothes.

§ 87(2)(b) described the officer who questioned him, frisked him, searched him, and search his car as a plainclothes black male in his fifties who stood 6'2" and weighed 240 lbs. He described the officer who assisted in the search of his vehicle as a plainclothes black male in his twenties who stood 6'2" and had a muscular build. He described the third officer who stood by him while his vehicle was searched as a plainclothes white male sergeant in his forties who was significantly shorter than the others, weighed 185 lbs., and was balding. These descriptions, which are all easily distinguishable from one another by both race and age, closely match the respective pedigrees of PO Aaron Thorn, Sgt. Daniel Miller, and PO Darion Brooks, as obtained via their MOS photographs. § 87(2)(g)

### **Allegations Not Pleaded**

§ 87(2)(g)

### **Investigative Findings and Recommendations**

**Allegation A—Abuse of Authority: PO Aaron Thorn questioned** § 87(2)(b)

**Allegation B—Abuse of Authority: PO Aaron Thorn frisked** § 87(2)(b)

**Allegation C—Abuse of Authority: PO Aaron Thorn searched** § 87(2)(b)

**Allegation D—Abuse of Authority: PO Aaron Thorn searched the car in which** § 87(2)(b)

**was an occupant.**

As PO Aaron Thorn retired from the NYPD on March 1, 2014, the CCRB was unable to obtain a statement from him. § 87(2)(g)

**Allegation E—Abuse of Authority: PO Darion Brooks searched the car in which** § 87(2)(b)

**was an occupant.**

§ 87(2)(b) alleged that PO Brooks and PO Thorn searched his car without providing any explanation as to their actions. § 87(2)(b) corroborated this, though she did not see the extent of the search nor could she describe which officers conducted it. Neither Sgt. Miller nor PO Brooks had any recollection of § 87(2)(b) or the incident as described, nor could they provide any insight as to why such actions may have been taken. PO Thorn retired from the NYPD.

§ 87(2)(g)

§ 87(2)(g)

§ 87(4-b) § 87(2)(g)

[illegible]

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\_\_\_\_\_  
\_\_\_\_\_

Team: \_\_\_\_\_

Investigator: \_\_\_\_\_  
Signature                      Print                      Date

Supervisor: \_\_\_\_\_  
 Title/Signature                      Print                      Date

Reviewer: \_\_\_\_\_  
 Title/Signature                      Print                      Date



Reviewer: \_\_\_\_\_  
Title/Signature                      Print                      Date